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FILED

DISTRICT COURT OF GUAM

JUN 19 2007 hbo

MARY L.M. MORAN
CLERK OF COURT

9 IN THE DISTRICT COURT OF GUAM

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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 BRIAN ELM,

15 Defendant.

) CRIMINAL CASE NO. 07-00026
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DEFENDANT'S PROPOSED
VOIR DIRE QUESTIONS

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17 In addition to the proposed *voir dire* questions submitted by the Government, Defendant,
18 Brian Elm, requests the Court add the following questions during *voir dire*:

19 1. Please state:

20 a. Your name;

21 b. Where you live;

22 c. How long you have lived at this address;

23 d. Your marital status (whether married, single, widowed or divorced);

ORIGINAL

- 1 e. The number and ages of your children, if any;
- 2 f. Your occupation, its length, or previous employment, if retired, previous
3 occupation and whether you do any volunteer work and, if so, please describe;
- 4 g. Your spouse's occupation, its length, or previous employment, if retired,
5 previous occupation and whether your spouse does any volunteer work and, if so, please describe;
- 6 h. The name of your present employer, if any;
- 7 i. Whether you have the authority to promote, hire or fire people;
- 8 j. How many people you supervise;
- 9 k. How far you went in school;
- 10 l. What degrees you acquired? Whether you ever have taken any course in, or
11 worked in the field of, psychology, law, criminal justice or any related area? If yes, please describe.
- 12 2. Have you ever served in the United States military? If so:
- 13 a. What branch?
- 14 b. When?
- 15 c. Rank?
- 16 d. Where?
- 17 3. Do you or any member of your family or friends know the defense attorney, or the
18 prosecuting attorney?
- 19 4. Do you or any member of your family or friends know the presiding judge in this
20 case?
- 21 5. Do you know or recognize any other prospective jury panelist in the courtroom? If
22 so, what is the basis of the relationship? Would such relationship or acquaintance influence your
23 judgment in this case?

1 6. Do you have any relative or friend who is connected with:

2 a. Law enforcement;

3 b. The Attorney General of Guam's office;

4 c. The United States Attorney's office; or

5 d. Any law enforcement agency or other quasi-law enforcement agency?

6 If so, have you ever discussed the guilt or innocence of any person charged with violating
7 the law? Have you ever wanted to go into law enforcement?

8 7. Have you ever been, or applied to be, a policeman/woman, military
9 policemen/woman, or worked, or applied to work, in a security field either for the state or national
10 government or for private industry?

11 8. Do you or any member of your family know any person employed by the government
12 who worked on this case and who will testify in court, or any other witness who will testify for the
13 prosecution in this case? (Request prosecutor to read list of agents and proposed witnesses.)

14 9. Have you ever served as a juror in a civil case? If so:

15 a. When?

16 b. Where?

17 c. How many times?

18 10. Have you ever served as a juror in a criminal case? If so:

19 a. When?

20 b. Where?

21 c. How many times?

22 d. Did you reach a verdict?

23 e. What was the verdict?

- 1 11. Have you ever served on a federal or state or territorial grand jury? If so:
- 2 a. When?
- 3 b. Where?
- 4 c. How many times?
- 5 12. Have you or any member of your immediate family or close personal friend ever
- 6 testified in a civil or criminal trial or before a federal or state grand jury? If so, please explain.
- 7 13. Have you or any member of your immediate family or friend been a party in a civil
- 8 action? If so, please explain.
- 9 14. Have you ever donated any time or money to any "crime watch" group? If yes, please
- 10 describe.
- 11 15. Have you ever served on a jury in a case involving drugs or perjury? If so:
- 12 a. When?
- 13 b. Where?
- 14 c. What was the verdict?
- 15 16. What are your feelings about the possession and sale of drugs? How would your
- 16 feelings affect your judgment in this case?
- 17 17. Is there anything about the nature of drug charges or perjury that would make it
- 18 difficult for you to be fair and impartial as a judge of the facts in this case?
- 19 18. Have you, any member of your immediate family or any friend owned or possessed,
- 20 or known anyone who owned or possessed, drugs? If so, please tell us about the experience. How
- 21 would that affect your judgment in this case?
- 22 19. Have you, any member of your immediate family or any friend ever been charged
- 23 with, or convicted of, a felony? If so, please tell us about the experience. How would that affect

1 your judgment in this case?

2 20. Would you agree that some people believe that a person who has been previously
3 convicted of a felony or sells drugs is more likely to commit a crime than someone who has never
4 been convicted of a felony or sells drugs? What do you feel about this belief?

5 21. Do you have any friend or family member who has ever used or been addicted to
6 drugs? If so, please explain.

7 22. Do you have any opinion about the use of drugs or the sale of which might influence
8 your ability to sit as a fair and impartial juror in this case?

9 23. What feelings, if any, do you have about the use of methamphetamine?

10 24. Would you agree that some people believe that a person who uses or is addicted to
11 drugs is more likely to lie than someone who has never used or been addicted to drugs? What do
12 you feel about this belief or perception?

13 25. How would you react if a majority of other jurors believed that a person was guilty
14 and you were in the minority? Would the fact that you were in the minority influence your vote at
15 all? Would you persuaded to join the majority even if you believed in your position?

16 26. What opinion have you formed at this time about the guilt or innocence of the
17 Defendant?

18 27. Would any of you tend to give any greater weight or credibility, no matter how slight,
19 to the testimony of a law enforcement agent or prosecution witness merely because they are
20 employees of, or are testifying on behalf of, the government? Would you give their testimony
21 greater weight or credibility over that of the Defendant or his witnesses? *United States v. Baldwin*,
22 607 F.2d 1294 (9th Cir. 1979).

23 28. This is a criminal case, which means that you cannot convict Mr. Elm for the charges

1 in the indictment, unless all twelve of you are satisfied beyond a reasonable doubt, that Mr. Elm is
2 guilty. Do each of you understand that it is the Government which completely carries the burden
3 of proof?

4 29. Do each of you understand that you must consider Mr. Elm innocent, unless and until
5 the Government satisfies you of his guilt, beyond a reasonable doubt?

6 30. Do each of you understand that Mr. Elm does not have to testify if he does not choose
7 to?

8 31. Do each of you understand that if Mr. Elm does not testify, you are not allowed to
9 hold that against him?

10 32. Can each of you promise that you will not hold it against Mr. Elm if he does not
11 testify?

12 33. Can each of you promise that if the Government does not meet its burden of proof,
13 that you will do your duty and find Mr. Elm not guilty?

14 34. What are your feelings about criminal defense attorneys? What effect will these
15 feelings have on your judgment about the innocence or guilt of the Defendant?

16 35. This case is scheduled to be tried over the course of three (3) days. Do any of you
17 have any pressing personal, employment or business related matters which would prevent you from
18 serving as a juror in this case?

19 a. Do any of you have any medical problems which you feel would prevent you
20 from serving as a juror in a three (3) day trial?

21 36. Have any of you ever been the victim of a crime?

22 a. If yes, would your experience affect your ability to serve as a juror in a case
23 where another person is accused of committing a crime?

